

Regular Meeting of the Mayor and Commissioners
Town of Newport
December 16, 2021

Pledge of Allegiance.

Attendance: Commissioner Michael Capriglione, Commissioner Michele MacDonald, Commissioner Gary Martinez, Commissioner Joseph Stagliano, Town Manager Wendy King, Police Chief Mark Wohner, Solicitor N. Christopher Griffiths

Solicitor Griffiths called the meeting to order at 7:00 pm.

Commissioner Michele MacDonald was appointed to the office of Mayor and she took her Oath of Office

Former Mayor Franklin Walker addressed the room and gave a history of what happened in his past that led to him resigning his appointment as Mayor and elected position as Commissioner. He described what happened and his mindset during that time and committed himself to serving the public in the capacity of his 36-year career at the City of Wilmington, his time in Newport and East Goshen Township and his 50 years of overall public service.

Minutes from the 11/18/2021 meeting. Commissioner Martinez said that while reading through them, he was concerned about the last paragraph or two. While he acknowledged not knowing any of the history, he believed the words were spun around and taken out of context. Town Manager King asked what part and read the three sentences that could have appeared to be taken out of context:

1. Where Solicitor Griffiths said he was going to backtrack his position about providing the town manager with an estimate of legal expenses
2. Commissioner Capriglione saying he was asking merely for budgetary purposes
3. Mayor Walker saying it was not the time or place to have that discussion.

Commissioner Martinez did not think it came out that way. Solicitor Griffiths said that respectfully, he read through the minutes and he was comfortable with the minutes as to his comments, but leaves it up to Commissioner Capriglione as to his comments. He said the minutes felt like what he said but if there is an edit or addition or strike that can be recommended, it can be considered. It was clarified that Commissioner Capriglione asked what he asked from a budgetary standpoint. Commissioner Capriglione said he did not think he asked specifically how much the town was going to spend on litigation and thanked Commissioner Martinez for bringing it up. Solicitor Griffiths' issue was that he understood where Commissioner Capriglione was coming from but felt the question may have been out of bounds. Commissioner Martinez commented that it all happened so fast as there were several conversations going on at the same time. Solicitor Griffiths asked Commissioner Capriglione If something should be added and he said no and reiterated the original question to Chief Wohner about the fines/costs projected in the 2022 budget and then the legal budget. Solicitor Griffiths

sate that his problem was that the only current litigation was his and for him to ask was inappropriate. Commissioner Capriglione said he did not know he was the only litigant. Mayor MacDonald made a motion to accept the minutes. Commissioner Stagliano seconded.

Town Manager's Report – Agenda was revised to add swearing in of Mayor MacDonald. Had a conversation with state's ARPA law firm to have questions answered regarding premium pay, percentage increase and acceptable projects. Explained that a premium pay is for hours worked, so two officers would be ineligible to receive the entire proposed amount and that we could not incorporate a 3% increase as it is for hours worked. The officer who did work the entire state of emergency who recently went part-time to cover shifts would be eligible and that it would be a moral argument for council and not a legal one. Revenue loss is overall loss, not on a specific line item. ARPA funds have to be committed by 2024 and spent by 2026. Pearl Harbor Day Celebration, DE Kids Fund Coat distribution and PFC Jones' participation. Holiday closings for Christmas and New Years. Budget comments. Informational bulletin was included in commissioner packets for review so something similar can be created and distributed to town residents and new people as they locate in town. Budget projections were altered to add monopoly income and take away the offset in Court Fines/Costs. Mayor MacDonald wanted to know if Pearl Harbor Day pictures could be posted on the website. She thinks it is a good idea for the informational booklet with a welcome letter giving information about the town, trash, water, how to register to vote and asked council if they had any ideas on anything to add to let us know. Commissioner Capriglione was going to obtain a listing from another municipality for comparison and suggested handing out this bulletin with an upcoming newsletter.

Police Chief's Report – November departmental statistics. He contacted Red Clay about the crosswalk at Richey School, has not heard back and will give information to the town manager when he gets it. Site visit for accreditation occurred on November 29 and the department will be recommended for accreditation. He did say that there were some small adjustments that needed to be done. For example, the "Use of Force" policy should be renamed "Response to Resistance" as is compliant with the rest of the state. On December 14, 2021, PFC Jones received the Crimestoppers Officer of the Year for a Small Police Department award. He could not attend the meeting because he was in class to become a Field Training Officer. Chief Wohner was proud and pointed out that three Newport officers are recipients of that award. Sergeant Mitchell received the award when he was employed with Elsmere in 2012 and Corporal Kashner received the award in 2018 and 2019. No award was given in 2020. Mayor MacDonald asked if the few things needing to be corrected would stop the department from being accredited. Chief Wohner said that it would not prevent the accreditation and could be done when renewed. The meeting for the accreditation is in January, 2022, where the board will meet and vote on it, but usually follows the recommendations for the on-site assessor.

Alderman's Report – Court Fines/Costs for November, 2021 - \$28,819

Maintenance Report – Report was presented. No questions on the report. Mayor MacDonald asked if Chesapeake Crabs ever got a license. They did not as they discontinued the sale of crabs at the church for the season.

Solicitor's Report – FOIA request for the police department. Worked on a question asked by Commissioner Capriglione regarding the CIBA grant. A memo and a full history of the grant was provided to the commissioners and recommended an executive session at a future meeting to discuss the next steps after the commissioners have had the opportunity to read the material presented. It is confidential and he will address any questions or comments. Worked with independent counsel who had a few questions regarding former Mayor Walker's questions that he wanted addressed. He will try to present in January. Solicitor Griffiths said he is staying independent of that person and that person will answer any questions about how the charter operates. There were three new litigations filed against the town by people who had dealings with the police department. He gets a daily report of new filings and saw these listings and called the town manager to let her know and discuss. These were not formally served. They are from a "pro se" person (non-attorney). He does not want to discuss the legal strategy at this time. Those three complaints will be handled under the "fixed fee" agreement so there will be no additional costs to litigate them. Commissioner Martinez asked if they were civil. Solicitor Griffiths said they were and explained the fixed fee arrangement versus litigation rates. The persons filing had dealings with the police department and had issues after the fact and he sees this from time to time with other agencies as well. Since there are minors involved, that is all that will be said. Commissioner Martinez asked if the town had insurance and the town manager said yes. Solicitor Griffiths said that he worked with the former mayor and town manager regarding the mayor's resignation – phone calls. He wanted to go back to the minutes and advised that there another colloquy with Commissioner Capriglione that was not recorded and memorialized in the minutes. He wanted to be sure that this was on the record. When he and Commissioner Capriglione spoke, he said that Commissioner Capriglione told him he did not believe he was the only litigation at the time and in his mind, there were multiple litigations going on and not just his. That is why he did not view his question as inappropriate and because he has not been invited to any executive sessions where discussion could be about him, he was not aware that there were none. Because his litigation was the only current litigation, asking how much will be spent on litigation is inappropriate. He did not know, so no harm, no foul. The question should not have been asked and they are moving on. Lastly, Solicitor Griffiths did contact Commissioner Capriglione's attorney to advise him of what happened and to remind his client that there are limits stipulated so we can all work together peacefully and has not received a response as yet. Trying to be sure we have peace and can work together and that it is understood what everyone is allowed to be doing here. Commissioner Capriglione is represented by counsel and we cannot talk to him about his litigation or the substance of it and neither should council. Part of the deal that was signed was that he will not talk to any commissioner about his case because ultimately, the council may be called upon to make a decision about it and it is important that there is no collusion and if it has already occurred, you should recuse yourself if that vote ever comes to the table. (He directed that comment mainly to Commissioner Martinez because he is a new commissioner and is unaware of the case.)

Commissioners – Commissioner Stagliano wanted to know why every employee was proposed premium pay except Frank Walker. It was explained that Mr. Walker was an independent contractor and was not on the town's payroll. He asked how many businesses did not have licenses. Town Manager King was not certain at that time. Commissioner Martinez asked about the number of businesses. The list will be provided next meeting. Commissioner Stagliano asked what was going on with code enforcement and non-compliant businesses. Solicitor Griffiths said that a resolution was drafted, but council tabled it. It can be brought back for discussion if council wants to reconsider it. Commissioner Stagliano said he is aware of businesses bragging about not having a license – My Cousin Vinny Plumbing and R. A. Baker were the two he mentioned. Former Mayor Walker commented that R. A. Baker just refuses to get a license. Commissioner Martinez asked how we find out what businesses are out there? Driving around to look for new signage and seeing trucks on the street doing work on a residence. He noted that while driving on Ayre Street, things looked subdivided.

Commissioner Stagliano asked the town manager if she wrote her own bonus. After it was explained that premium pay is not a bonus, that yes, she recommended an amount that was the same as the other administrative employee. He said that she should have come to council and not write her own raise or bonus. It was explained that the amounts were proposed – not voted on nor paid out and that anything can be changed. Mayor MacDonald said all of it would be discussed. Commissioner Capriglione what Commissioner Stagliano was trying to say that employees should be first and the town manager should be separate. Mayor MacDonald wanted to get to the budget and ARPA, so she did not have much to say.

Public Comment: Victoria Wollaston, property owner and former resident wanted to discuss salaries. Two years ago, she asked two commissioners and two employees what the town manager's salary was and they did not know. It is public information and the commissioners are responsible for hiring and firing the town manager. Why did they not know what she made? At that point as a town resident, she took it upon herself to find out that information. She submitted a FOIA request and received a list of salaries for all employees. Having a BS degree in Human Resources Management and working over 40 years, she was shocked to see that the salary did not even include the benefits which would make them a much larger amount. In her opinion, benefits should always be included as part of your salary. She had to send another FOIA request to obtain benefit information and said that she only received some but did not indicate what she believed she was missing. To compare and contrast Newport salaries to other towns in Delaware that were approximately a population of 1000, she sent FOIA requests to five towns. Newport has the smallest square mileage of all the towns, but the salaries are far greater. She received information on Milton which is three times the size of Newport and the town manager was paid less than Newport's town manager. She stated that the average salary of a town manager in Delaware was \$64,800 depending on town size. Newport's town manager's salary is \$91,000 plus benefits. She wants to know what the commissioners thought of that. Mayor MacDonald asked if Ms. Wollaston had information regarding years of experience, length of employment, hours worked, level of additional staffing and that she herself would have a lot of questions about that. She had tried to get information on salaries and it proved difficult because on the

website she had found, there were many variables and different qualifications that could be entered in. Town Manager King has been with the town for 14 years and there are many factors when you are talking about dollar amounts. Ms. Wollaston said that was true, but the Milton town manager has been there a long time. She said she only got salary information and benefits are a very large component of the compensation package. Town Manager King said they were separate and when you only ask for salary information, that is all you will receive.

Commissioner Capriglione asked when she received the data and it was 2019. He said at some point, he would like a salary study done and felt the police department was underpaid and that Delaware State Police was going to be starting at \$75,000 a year and that new hires starting in Newport are starting at \$52,000 – a significant difference. Ms. Wollaston said that Newport is not the same as the state and if you want to work for the state, work for the state. Newport is very small. Commissioner Capriglione said salaries have to match what is going on around you and with longevity, the salaries will of course rise over time. It is tough to control and manage. Ms. Wollaston said council should look at it because salary and benefits were costing over \$1,000,000. Mayor MacDonald thanked her for her input and added that as a business, you want to be able to attract and keep qualified people. Michael Spencer, Christian Street, had some follow up comments. The benefits are never part of the salary because some municipalities offer better benefits to offset a lower salary. They are not grouped together. As far as Milton is concerned, Town Manager Kristi Rogers has been with Milton for 20 years and was the clerk for 16 of those years. She also has a clerk and a secretary, so the administrative costs are higher. As Commissioner Capriglione said, they always have to look at the police budget because that the highest part of the town's budget and when someone has been here a long time, the pay is going to escalate and it is not a matter of you not liking what they do or don't do. You have to pass the budget that makes sense for the town based on revenue and expenses. You cannot expense your way to a profit when you do that, you end up cutting people. To hire officers at \$52,000 is difficult and a big challenge is the towns getting poached because the salary elsewhere is more attractive. In regard to the CIBA grant, he said there was a 2nd ownership change and it is delicate. A gentleman named Peter at CIBA can assist in navigating through things and he will get the number to Solicitor Griffiths. Former Mayor Walker said that Chief Wohner heard that the Delaware League of Local Governments was preparing a response to the state saying that the state cannot keep raising salaries as small towns cannot keep up. Until there is a rebuild of the vacant lots in town, the well will dry. Be very careful as commissioners not to spend what you do not have. When there are buildings where vacant lots sit, we can make up the difference. Chief Wohner said that league sent out a survey that the town manager took. He said the disparity is not only pay but in leave, as well. Earlier in the year, there were comments from the commissioners that 5 weeks' leave was too generous, but the state starts at 5 weeks and accumulates from there. The employees are rewarded the best as can be, given the resources we have. Kevin Haigh, Augustine Street, said the audit is a very meaningful way to see where the town's money is going. Mayor MacDonald said it is not just about money that is being spent, but what money is being brought in. Are there any thoughtful ways to generate revenue? Looking at other towns at what they charge for permits, Newport is at it's limit. They have been in place since 2004. Commissioner Capriglione said we have to do what we can to keep the men here until the buildings go up and things start growing. The ARPA money is helpful and we can

utilize it again in 2022. The town does not sell utilities and we are limited in ways to raise revenue, but if there is no manager, no maintenance, no police, there is no town.

Thomas Harvey, Harvey Hanna and Associates, thanked former Mayor Walker for his service and congratulated Mayor MacDonald on her appointment. To thank the town of their ongoing support, he offered a check for \$2,500 so the commissioners can each donate \$500 to the charity of their choice.

Commissioner Martinez asked if each business pays the same amount. It depends on what type of business they are, if they rent their properties, if they bring in less than \$50,000, non-profit status.

Budget – there were no changes to the budget except the additional monopoly income and a decreasing offset for court fines/costs. Commissioner Capriglione asked why it was increased. Sprint and TMobile occupied a second, larger space. He asked about the loss of revenue from the previous year \$54,000 and is that the maximum that could be reimbursed through ARPA. It is based on overall loss. Commissioner Martinez asked what properties were covered in the line item “Maintenance of Buildings and Grounds” – it is our three buildings and land.

Commissioner Capriglione said the budget was balanced but was not happy that the employees were not getting a pay raise but was glad they were getting premium pay and possibly in 2022. Nothing else changed – no tax increase. He made a motion to accept the budget as prepared. Commissioner Stagliano seconded. All ayes.

Mayor MacDonald read aloud Resolution 2021-005, which passes the budget, outlines expenses and maintains the current tax rate.

Premium Pay – Commissioner Capriglione confirmed the dates of the state of emergency and noted that council’s biggest issue with Bell was that he was no longer employed with the town and wanted to know the date of his resignation. He went part-time in September, 2021 and is still on the payroll and continues to cover shifts. Commissioner Capriglione made a motion to put Bell back in the equation at the full amount and Mayor MacDonald seconded it. Betsch and Savino cannot be put in at the full amount since it is based on hours worked. He asked if premium pay could be done at the end of 2022 – yes, it can be and council can decide at what level. He said that he would make the motion for the employees and the motion for the town manager separate so they were doing it. He made the motion to give premium pay to the police officers, maintenance persons, court clerk, alderman and code officer. Commissioner Martinez seconded. Mayor MacDonald asked if there were any amendments to the amounts – no there were not. All ayes. Commissioner Capriglione made a motion to give the town manager premium pay. Mayor MacDonald seconded. All ayes. It was clarified that the premium pay would take place at the last payroll of the year and it will come from payroll and not a check/1099.

Commissioner Stagliano asked about nominating a vice mayor. Mayor MacDonald said that she will consider that next month because she wants to appoint the open seat in January and did not want to do so with only days' notice and the public was not aware of the opening. It did not concern her too badly for December as long as there is a quorum, they were okay. A newsletter will go out to advise.

Commissioner Capriglione made a motion to adjourn. Commissioner Stagliano seconded.

Meeting adjourned at 8:11 pm.